

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

EMERSON ELECTRIC CO., et al.,

Plaintiffs,

v.

LE CARBONE LORRAINE, S.A., et al.,

Defendants.

Case No. 05-CV-6042 (JBS)

[PROPOSED] ORDER

This matter having come before the Court on Plaintiffs' letter brief dated October 20, 2008 in which Plaintiffs sought to compel the production of notes taken by counsel for Defendants of the interviews of Jim McCrone, Michel Coniglio, and Jacques Marquand conducted by the United States Department of Justice; the Court having reviewed both Defendants' submission in opposition thereto in which Defendants argued that Plaintiffs failed to make a showing sufficient to satisfy the requirements of Fed R. Civ. P. 26(b)(3)(A) and Plaintiffs' submission in support thereof; the Court having held a telephone conference pursuant to Civil Local Rule 37.1(a)(1) on November 5, 2008 during which the Court determined that the requested attorney notes contained attorney work product; and the Court having concluded that the notes taken by counsel for Defendants of the interviews of Jim McCrone and Michel Coniglio conducted by the United States Department of Justice should be disclosed;


IT IS this 5th day of December, 2008 hereby

ORDERED that Defendants shall produce, on or before December 9, 2008, notes taken by counsel for Defendants of the interviews of Jim McCrone and Michel Coniglio conducted by

the United States Department of Justice, and that the Defendants may redact opinion work product contained in the notes, subject to further objection;

ORDERED that Plaintiffs have reserved all rights with respect to the notes taken by counsel for Defendants of the interview(s) of Jacques Marquand conducted by the United States Department of Justice, and that, in the event Plaintiffs' efforts to depose Mr. Marquand are not successful, Plaintiffs shall be entitled to renew their motion to compel production of such notes and Defendants shall be entitled to oppose such renewed motion to compel; and

IT IS FURTHER ORDERED that the notes produced by Defendants pursuant to this Order shall be designated "Highly Confidential" pursuant to the Protective Order entered in the above-captioned litigation and that such notes shall not be disclosed, without prior agreement of the parties or order of the Court, to any person other than (1) the Court or court personnel; and (2) counsel of record for any party in the above-captioned litigation.


JEROME B. SIMANDLE
UNITED STATES DISTRICT JUDGE